

**MINUTES OF MEETING OF THE CORPORATIONS COMMITTEE**  
**January 6, 2006**

A regular meeting of the Corporations Committee (the "Committee") of the Business Law Section of the State Bar of California was held by video conference on January 6, 2006. Attendance was as follows:

**MEMBERS PRESENT:**

Nelson D. Crandall  
Christopher A. Delfino\*  
Bruce R. Deming  
Steven R. Harmon  
Victor Hsu  
Michael A. Occhiolini\*  
William R. Sawyers  
David M. Serepca\*  
Lemoine Skinner, III  
Jennifer Lynn Sostrin  
Steven B. Stokdyk  
Suzanne L. Weakley  
Bertha Cortes Willner  
Brian M. Wong  
Russell J. Wood

**MEMBERS ABSENT:**

Curt C. Barwick  
Clint Davis  
Matthew R. Gemello  
Peter Heinecke  
Nina L. Hong  
Brian A. Lebrecht  
Stewart Laughlin McDowell  
Deborah J. Ruosch  
James J. Thompson

**LIAISONS AND GUESTS PRESENT:**

Keith Paul Bishop, Executive Committee\*  
Larry Doyle, State Bar of California, Office of Government Affairs\*  
Suzanne S. Graeser, Executive Committee\*  
Timothy L. Le Bas, Department of Corporations\*  
Brian D. McAllister  
Andrew Petillon, SEC  
Rosalind Tyson, SEC

\*Via telephone

The minutes summarize discussion primarily in the order items were listed on the Agenda for the meeting previously circulated to members of the Committee, which is not necessarily the order in which the items were actually taken up at the meeting. The Committee did not take up those topics listed on the Agenda that are not described in these minutes.

## **I. ADMINISTRATIVE MATTERS**

1. Opening Remarks and Announcements: The meeting was called to order by Co-Chair Stokdyk at 9:30 a.m. Mr. Stokdyk thanked the members of the Committee in attendance and informed them that a quorum was present.
2. Approval of Minutes: The minutes for the September 2005 and December 2005 meeting were approved in the form circulated (with minor corrections).

## **II. AGENCY AND LIAISONS' REPORTS**

1. Securities and Exchange Commission: Ms. Tyson informed the Committee that she and Mr. Petillon will act as co-liaisons to the Committee.
2. Department of Corporations: Mr. LeBas reported that the Department of Corporations (the "DOC") is beginning to meet internally to work on various new projects, including revising the instructions to various forms. Other projects include making more changes to the Securities Regulation Division application and studying model form comment letters to create more uniformity. The Corporate Disclosure Act is still pending internal review (the DOC finished its review and submitted its report to the Governor's Office). The USA is still being studied internally. The DOC sent a questionnaire to other states to find out whether they are studying it also and what they are doing. Mr. LeBas reported that the electronic filing of 25102(f) notices has been a tremendous success. Finally, Mr. LeBas indicated that all state agencies have been directed to focus their legislative efforts on things that are technical in nature, clean-up type changes. Mr. LeBas asked that if anyone sees a need to make the California securities laws more uniform with the federal securities laws they should contact him.
3. Office of Governmental Affairs: Mr. Doyle reported that Assemblyman Van Tran (R-Costa Mesa) has agreed to author the Corporation Committee's "Technical Corrections" bill (BLS-2006-01), and Senate Republican Leader Dick Ackerman (R-Irvine) has agreed to author a bill combining the Committee's proposed amendments to Corporations Code Section 191 (BLS-2006-02) and to Section 710 (BLS-2006-03).
4. Corporate Law Departments: Mr. Harmon reported that he has not had any contact with the Corporate Law Departments Committee regarding meetings held in the last couple of months, but did have some contact in which Mr. Harmon informed them of Keith Bishop's teleconference coming up in February. The Committee discussed sending an email blast to the Corporate Law Departments' constituency list at the same time it goes out to the Corporations Committee's constituency list in two weeks. The Committee also discussed the possibility of putting together a seminar regarding the attorney-client privilege and Mr. Harmon will be talking to people who might be appropriate for this.

5. Cyberspace Law: Mr. Wood indicated that he had nothing new to report regarding the Cyberspace Law Committee.
6. Financial Institutions: Mr. Occhiolini indicated that he had nothing new to report regarding the Financial Institutions Committee but that he would be attending its upcoming meeting on Tuesday.
7. Partnerships and LLCs: Mr. Skinner indicated that he had nothing new to report regarding the Partnerships and LLCs Committee.
8. Executive Committee: Ms. Graeser encouraged the Committee to use the broader constituency list. Ms. Graeser also indicated that the Executive Committee is now accepting applications for the Executive Committee.

### III. SUBCOMMITTEE REPORTS

1. Legislation:
  - a. Jury Waivers: Mr. Delfino reported on the status of the Committee's Affirmative Legislative Proposal (the "ALP") regarding jury waivers. Representatives of the Financial Institutions and UCC Committees expressed concern that the changes made in the December draft of the ALP were of a substantive nature and may go beyond the scope of the authority given to them, hence requiring them to go back to their respective committees for re-approval. Mr. Delfino proposed going back to the November draft in order to move things more quickly. The Committee discussed the implications of proceeding with the November draft versus the December draft and approved proceeding with the November draft and trying to get it to the Board of Governors as soon as possible.
  - b. Corporate Disclosure Act: Mr. Deming led a discussion regarding the Committee's ALP to repeal the supplemental disclosure portions of the Corporate Disclosure Act. An issue has arising regarding the definition of "public company." Pink Sheet companies are not required to file with the SEC and thus may not have a Central Index Key ("CIK") number. As a consequence, the structure that we propose may not work with respect to Pink Sheet companies. The Committee discussed possible solutions. Prior to the next meeting, the subcommittee will revise the ALP to include a comparative matrix. The subcommittee will also talk to Secretary of State's office to see if they would be amenable to the approach that we are taking. Mr. Deming will coordinate with Neil Wertlieb to see how this fits in with the Executive Committee's schedule.
2. Communications/Website: Ms. Sostrin asked that anyone having trouble accessing the extranet or not receiving emails from the Committee, such as meeting notices, should contact Ms. Sostrin and/or Ms. Willner.
3. Education/Publications: A draft of Mr. Davis' article on Selected 2005 Developments in California Corporate Law was posted to the extranet.

Comments should be given to Mr. David as soon as possible because the deadline for submission is at the end of January. The Committee discussed ideas for the state bar meeting in October, including a very general introductory securities law presentation or a program on the new securities rules that went into effect.

4. Litigation: Mr. Wood indicated that there is not much to report on new opinions. Mr. Wood would welcome help from others in figuring out how to narrow the review of opinions that would be relevant to this Committee.

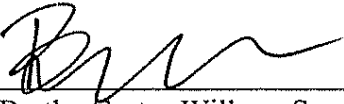
#### **IV. ONGOING PROJECTS**

1. National Venture Capital Association Model Forms: Mr. Skinner reported that he is still waiting for comments from Wilson Sonsini and Cooley Godward with respect to the Committee's National Venture Capital Association Model Forms project.
2. Close Corporation Model Act Adoptions: Mr. Serepca gave the Committee an update on the Close Corporation Model Act, indicating that it has been relatively quiet. Mr. Serepca continues to follow-up with the experts enlisted to review and comment on the proposed Close Corporation Model Act. He indicated that Professor Hugh Friedman from USD is going to Northern California next week to meet with the subcommittee.
3. Legal Handbook for Incorporating a Business in California: Ms. Weakley reported that the Legal Handbook for Incorporating a Business in California Handbook will be sent to the Executive Committee shortly.
4. ABA Task Force on Attorney-Client Privilege: Mr. Wood reported that the ABA Task Force on Attorney-Client Privilege is meeting next Tuesday. The objectives of the meeting are to revisit the Task Force's approach to the Thompson memo and to set up guidelines. The Task Force received comments from various members of this Committee regarding the questionnaire that was submitted and is reviewing those comments.
5. Venture Capital Opinion Project: Mr. Skinner reported that a teleconference meeting of the Venture Capital Opinions Subcommittee of the Opinions Committee is scheduled for next Tuesday.
6. Update on Section 2115 Project: Mr. Serepca reported that there have been no meetings of the workgroup since the December meeting. The Committee discussed a framework and action plan for plan for completing the analysis.

#### **V. NEW BUSINESS**

1. SB 119 0 Cal. Corp. Code 307(b): Mr. Serepca and Mr. McAllister lead the Committee in a discussion of the current status of SB 119, including comments from Hugh Friedman.

The meeting was adjourned at approximately 12:05 p.m.



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Bertha Cortes Willner, Secretary